CHEE KOK WING

v.

PP

HIGH COURT MALAYA, KUALA LUMPUR
AZMAN ABDULLAH JC
[CRIMINAL APPEAL NO: 42-41-2008]
17 NOVEMBER 2009

CRIMINAL PROCEDURE: *Trial - Joint trial - Joinder of charges - Seven offences of receiving bribes under s. 10(a)(bb) Anti-Corruption Act 1997 - Whether all offences part of same transaction by reason of continuity of action and community of purpose - Discretionary power of trial judge - Whether desirable for joint trial to be conducted - Anti-Corruption Act 1997, s. 51*

The appellant was charged in the sessions court with seven offences of receiving bribes under s. 10(a)(bb) of the Anti-Corruption Act 1997 ('ACA'). All the charges were similar except for the dates, places, the individuals from whom the bribes were received and the mode by which they were received. The alleged offences were committed within a period of 13 days, the first of which was on 19 May 2006 and the last on 31 May 2006, and the bribes were allegedly received by the appellant for the purpose of inducing an officer of the Securities Commission ('Commission') to help with the listing of a company called Gropoint Ocean Food Sdn Bhd ('said company') and to stop investigations into the said company by the Commission. The prosecution applied for a joint trial of all the seven charges and the learned sessions court judge ('SCJ'), despite objection by the appellant, allowed the application. Hence, the present appeal by the appellant.

Held (dismissing the appeal):

(1) Based on the reading of the charges, the SCJ was correct in holding that all the offences were part of the same transaction by reason of continuity of action and community of purpose, as all the acts were done for the singular purpose of inducing a Commission's officer, one Kris Azman Abdullah, to help with the listing of the said company and to stop investigations into the said company by the Commission. Section 51 of the ACA is a special provision that vests upon a trial judge a

A discretionary power to conduct a joint trial in respect of two or more charges for offences under the ACA, and the SCJ was right in her interpretation of s. 51 of the ACA in that there was nothing in the language of that section that requires the offences to be part of the "same transaction" before a joint trial
B can be allowed. However, since the s. 151 of the ACA only made it discretionary for a trial judge to conduct a joint trial, as a matter of prudence a trial judge must, in the exercise of such discretion, consider whether the application of that section would be in harmony with the other provisions of the Criminal
C Procedure Code ('CPC') relating to joinder of charges, such as s. 165(1) of the CPC, in order not to cause undue embarrassment or difficulty to the accused person. Although such consideration is not mandatory, it is surely a significant aspect in determining whether that discretion is exercised
D judiciously. In the present case, it was desirable for a joint trial to be conducted, not so much for the sake of convenience of the parties, but more importantly for a reasonably swift disposal of all the seven charges made against the appellant that, otherwise, would be left hanging on his head for a considerable
E period of time. Therefore, the SCJ was correct in her interpretation of s. 51 of the ACA and also in her exercise of the discretionary power accorded to her by that section. (paras 20-23)

F **Case(s) referred to:**
Amrita Lal Hazra v. Emperor [1915] 42 Cal 957 ***(refd)***
Chin Choy v. PP [1955] 1 LNS 17 HC ***(refd)***
Datuk Hj Wasli Mohd Said v. PP & Another Case [2006] 6 CLJ 1 HC ***(refd)***
Jayaraman & Ors v. Public Prosecutor [1979] 1 LNS 36 ***(refd)***
G *Lim Sing Hiaw v. PP [1964] 1 LNS 92 FC* ***(refd)***
PP v. Loh Ang Sing [1964] 1 LNS 145 HC ***(refd)***
PP v. Ridzuan Kok Abdullah [1996] 2 CLJ 346 HC ***(refd)***
SA Jamil Md Yusof v. PP [2002] 7 CLJ 132 HC ***(refd)***

H **Legislation referred to:**
Anti-Corruption Act 1997, ss. 10(a)(bb), 51
Criminal Procedure Code, ss. 163, 164(1), 165(1)
Emergency Regulations 1948, regs. 4(1), 5(1)

For the applicant - Tan Hock Chuan (Justin Wee with him); M/s Tan Hock
I *Chuan & Co*
For the respondent - Dato' Abdul Razak Musa DPP

Reported by Suresh Nathan

JUDGMENT

Azman Abdullah JC:

The Background Of The Appeal

[1] The appellant was charged in the Sessions Court with seven offences of receiving bribes under s. 10(a)(bb) of the Anti-Corruption Act 1997 ("ACA"). All the charges were similar except for the dates, places, the individuals from whom the bribes money were received and the modes by which they were received. The particulars as stated in each charges indicated that the alleged offences were committed within a period of 13 days, the first of which was committed on 19 May 2006 and the last on 31 May 2006, and that the bribes were allegedly received by the appellant for the purpose of inducing a Securities Commission's officer to help with the listing of a company called Gropoint Ocean Food Sdn Bhd and to stop investigations into the said company by the Commission.

[2] The prosecution applied for a joint trial of all the seven charges and the learned Sessions Court judge, despite an objection by the learned defence counsel Mr. Tan Hock Chuan, had allowed the application and hence the appeal.

[3] The full texts of the seven charges, which form a central part of the present appeal, are thus reproduced below, by maintaining their original language:

Pertuduhan 1

> Bahawa kamu, pada 19.05.2006, di Alliance Bank Malaysia Berhad, 15-G & 15-1, The Boulevard Offices, Mid Valley City, Lingkaran Syed Putra, dalam Wilayah Persekutuan Kuala Lumpur, secara rasuah telah menerima suatu suapan iaitu, wang sebanyak RM1,000,000.00 yang telah dimasukkan kedalam akaun Alliance Bank Malaysia Berhad, syarikat Info-Revival Sdn Bhd, nombor akaun: 141760010019338, melalui kiriman wang secara telegraf transfer, No. Cek 612780 daripada Lee Sin Teck, Pengarah Syarikat Gropoint Ocean Food Sdn Bhd yang kononnya sebagai dorongan kepada Kris Azman bin Abdullah, seorang pegawai badan awam iaitu Pengarah Bahagian Terbitan dan Pelaburan di Suruhanjaya Sekuriti Malaysia bagi melakukan suatu perbuatan iaitu membantu penyenaraian Syarikat Gropoint Ocean Food Sdn Bhd di BSKL dan menghentikan siasatan oleh pihak

Suruhanjaya Sekuriti, dan dengan itu kamu telah melakukan suatu kesalahan dibawah seksyen 10(a)(bb) Akta Pencegahan Rasuah 1997 dan boleh dihukum dibawah seksyen 16 Akta yang sama.

Pertuduhan 2

Bahawa kamu, pada 25.05.2006, di Alliance Bank Malaysia Berhad, 15-G & 15-1, The Boulevard Offices, Mid Valley City, Lingkaran Syed Putra, dalam Wilayah Persekutuan Kuala Lumpur, secara rasuah telah menerima suatu suapan iaitu, wang sebanyak RM1,000,000.00 yang telah dimasukkan kedalam akaun Alliance Bank Malaysia Berhad, syarikat Info-Revival Sdn Bhd, nombor akaun: 141760010019338, melalui kiriman wang secara telegraf transfer, No. Cek 612782 daripada Lee Sin Teck, Pengarah Syarikat Gropoint Ocean Food Sdn Bhd yang kononnya sebagai dorongan kepada Kris Azman bin Abdullah, seorang pegawai badan awam iaitu Pengarah Bahagian Terbitan dan Pelaburan di Suruhanjaya Sekuriti Malaysia bagi melakukan suatu perbuatan iaitu membantu penyenaraian Syarikat Gropoint Ocean Food Sdn Bhd di BSKL dan menghentikan siasatan oleh pihak Suruhanjaya Sekuriti, dan dengan itu kamu telah melakukan suatu kesalahan dibawah seksyen 10(a)(bb) Akta Pencegahan Rasuah 1997 dan boleh dihukum dibawah seksyen 16 Akta yang sama.

Pertuduhan 3

Bahawa kamu, pada 29.05.2006, di Tingkat 10 Pejabat Nasioncom Holdings Berhad, 5-5 The Boulevard, Mid Valley City, Lingkaran Syed Putra, dalam Wilayah Persekutuan Kuala Lumpur, melalui seorang yang bernama Koh Yuet Yee, telah secara rasuah menerima suatu suapan iaitu, wang tunai sebanyak RM600,000.00 daripada Dato' Lim Kim Ming Pengarah Syarikat Gropoint Ocean Food Sdn Bhd yang kononnya sebagai dorongan kepada Kris Azman bin Abdullah, seorang pegawai badan awam iaitu Pengarah Bahagian Terbitan dan Pelaburan di Suruhanjaya Sekuriti Malaysia bagi melakukan suatu perbuatan iaitu membantu penyenaraian Syarikat Gropoint Ocean Food Sdn Bhd di BSKL dan menghentikan siasatan oleh pihak Suruhanjaya Sekuriti, dan dengan itu kamu telah melakukan suatu kesalahan dibawah seksyen 10(a)(bb) Akta Pencegahan Rasuah 1997 dan boleh dihukum dibawah seksyen 16 Akta yang sama.

Pertuduhan 4

Bahawa kamu, pada 30.05.2006, di Tingkat 10 Pejabat Nasioncom Holdings Berhad, 5-5 The Boulevard, Mid Valley City, Lingkaran Syed Putra, dalam Wilayah Persekutuan Kuala Lumpur, melalui seorang yang bernama Koh Yuet Yee, telah secara rasuah menerima suatu suapan iaitu, wang tunai sebanyak RM50,000.00 daripada Wong Tze Yen Pengarah Bahagian Perkhidmatan Korporat Syarikat Gropoint Ocean Food Sdn Bhd yang kononnya sebagai dorongan kepada Kris Azman bin Abdullah, seorang pegawai badan awam iaitu Pengarah Bahagian Terbitan dan Pelaburan di Suruhanjaya Sekuriti Malaysia bagi melakukan suatu perbuatan iaitu membantu penyenaraian Syarikat Gropoint Ocean Food Sdn Bhd di BSKL dan menghentikan siasatan oleh pihak Suruhanjaya Sekuriti, dan dengan itu kamu telah melakukan suatu kesalahan dibawah seksyen 10(a)(bb) Akta Pencegahan Rasuah 1997 dan boleh dihukum dibawah seksyen 16 Akta yang sama.

Pertuduhan 5

Bahawa kamu, pada 30.05.2006, di Tingkat 10 Pejabat Nasioncom Holdings Berhad, 5-5 The Boulevard, Mid Valley City, Lingkaran Syed Putra, dalam Wilayah Persekutuan Kuala Lumpur, melalui seorang yang bernama Koh Yuet Yee, telah secara rasuah menerima suatu suapan iaitu, wang tunai sebanyak RM50,000.00 daripada Dato' Lim Kim Ming Pengarah Syarikat Gropoint Ocean Food Sdn Bhd yang kononnya sebagai dorongan kepada Kris Azman bin Abdullah, seorang pegawai badan awam iaitu Pengarah Bahagian Terbitan dan Pelaburan di Suruhanjaya Sekuriti Malaysia bagi melakukan suatu perbuatan iaitu membantu penyenaraian Syarikat Gropoint Ocean Food Sdn Bhd di BSKL dan menghentikan siasatan oleh pihak Suruhanjaya Sekuriti, dan dengan itu kamu telah melakukan suatu kesalahan dibawah seksyen 10(a)(bb) Akta Pencegahan Rasuah 1997 dan boleh dihukum dibawah seksyen 16 Akta yang sama.

Pertuduhan 6

Bahawa kamu, pada 31.05.2006, di Tingkat 10 Pejabat Nasioncom Holdings Berhad, 5-5 The Boulevard, Mid Valley City, Lingkaran Syed Putra, dalam Wilayah Persekutuan Kuala Lumpur, melalui seorang yang bernama Koh Yuet Yee, telah secara rasuah menerima suatu suapan iaitu, wang tunai sebanyak RM 400,000.00 daripada Dato' Lim Kim

A Ming Pengarah Syarikat Gropoint Ocean Food Sdn Bhd yang kononnya sebagai dorongan kepada Kris Azman bin Abdullah, seorang pegawai badan awam iaitu Pengarah Bahagian Terbitan dan Pelaburan di Suruhanjaya Sekuriti Malaysia bagi melakukan suatu perbuatan iaitu membantu penyenaraian
B Syarikat Gropoint Ocean Food Sdn Bhd di BSKL dan menghentikan siasatan oleh pihak Suruhanjaya Sekuriti, dan dengan itu kamu telah melakukan suatu kesalahan dibawah seksyen 10(a)(bb) Akta Pencegahan Rasuah 1997 dan boleh dihukum dibawah seksyen 16 Akta yang sama.

C **Pertuduhan 7**

Bahawa kamu, pada 31.05.2006, di Citibank Berhad, Menara Citibank, 165 Jalan Ampang, dalam Wilayah Persekutuan Kuala Lumpur, secara rasuah telah menerima suatu suapan iaitu, wang sebanyak RM400,000.00 yang telah
D dimasukkan kedalam akaun Citibank Berhad, milik kamu, nombor akaun: 0128835008, menerusi cek bernombor 329810 daripada Dato' Lim Kim Ming, Pengarah Syarikat Gropoint Ocean Food Sdn Bhd yang kononnya sebagai dorongan kepada Kris Azman bin Abdullah, seorang pegawai
E badan awam iaitu Pengarah Bahagian Terbitan dan Pelaburan di Suruhanjaya Sekuriti Malaysia bagi melakukan suatu perbuatan iaitu membantu penyenaraian Syarikat Gropoint Ocean Food Sdn Bhd di BSKL dan menghentikan siasatan oleh pihak Suruhanjaya Sekuriti, dan dengan itu kamu telah melakukan suatu kesalahan dibawah seksyen 10(a)(bb) Akta
F Pencegahan Rasuah 1997 dan boleh dihukum dibawah seksyen 16 Akta yang sama.

The Main Points Relied On By The Parties

[4] Before this court, the counsel for the appellant in opposing
G the application primarily relied on the following grounds:

(i) The power to order a joinder of charges is a power exercisable by the court, not the prosecution. An order for a joinder of charges is not an automatic right of the prosecution but it
H must satisfy the court into using the discretion to grant the order which is an exception to the general rule as provided under s. 163 CPC, which it has failed to do.

(ii) Section 51 ACA, being a penal statute, must be construed strictly and the word "may" that appears in s. 51 ACA means
I that the court has a discretion to grant an order to join all

seven charges in this case by applying established principles of law as per the decision in the case of *Lim Sing Hiaw v. PP* [1964] 1 LNS 92.

(iii) Since s. 51 ACA also made a reference to s. 164 CPC, it must also be construed harmoniously with other provisions of the CPC relating to a joinder of charges, in particular s. 165(1) of the CPC. Section 51 ACA and s. 165 CPC should be applied in harmony with each other thus 'the Sessions Court should have exercised its discretion to order a joinder of charges only if the facts of the case fall within the same transaction'. In other words, s. 51 ACA must be read together with s. 165(1) CPC.

(iv) The learned Sessions Court judge had failed to exercise her discretion judiciously when granting the order for joinder of charges by not appreciating the 'same transaction' test established in *Amrita Lal Hazra*'s case. It was argued that in the present case, there is no proximity of time or place. Further, based on an *ex facie* examination of the charges, there is nothing to suggest that there is continuity of action or purpose in the alleged offences.

(v) Alternatively, even if the court finds that the offences form part of the same transaction, the court has the discretion not to allow a joinder of charges if it will cause embarrassment or prejudice to the appellant. It was argued that if the order for a joinder of trial is allowed to remain, there is a high possibility that:

(a) the appellant will be severely prejudiced in conducting his defence as there will be confusion of issues since there are seven charges; and

(b) there will most likely be some other evidence tending to show that the appellant is guilty of some other offence and the trial judge maybe unconsciously prejudiced against the appellant.

(vi) By relying on the principle in *Chin Choy v. PP* [1955] 1 LNS 17, if there is a misjoinder of charges, it is an illegality which is not curable.

[5] On the other hand, the learned DPP in support of the application primarily relied on the following grounds:

A (i) The joinder of all the seven charges is allowed under s. 51 ACA and being a specific law, it overrides the general provision of the Criminal Procedure Code ("CPC") including s. 165(1) CPC which requires that two or more offences can only be tried together if they form part of the same transaction. In
B alternative, it was argued that all the offences were committed in the same transaction as there are elements of unity of purpose and design.

(ii) Since all the offences are of the same kind, it is only reasonable
C for them to be heard together and the possibility of bad character and irrelevant evidence being produced against the accused can be avoided.

(iii) The time and cost of the trial will be saved by conducting the joint trial. Further, as the witnesses involved are mostly the
D same, a joint trial will also spare the witnesses the inconvenience of having to attend to too many trials.

(iv) The accused will not be prejudiced, embarrassed or unfairly adjudicated by the joint trial.

E

The Decision Of The Court

[6] The court will now look into the principles of law regarding joinder of charges. As a general rule, there must be a separate trial
F for every charge. Thus an accused person charged with more than one offence must be tried separately for each of such offences. The rule is intended to prevent embarrassment and difficulty to the accused in defending himself. This principle is provided under s. 163 CPC, with a few well defined exceptions including those set
G out in the section itself. The said section reads:

> **163. Separate charges for distinct offences.**
>
> For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried
H separately, except in the cases mentioned in sections 164, 165, 166 and 170.

[7] Apparently, s. 51 ACA provides another such an exception. Under the said section, a person charged for offences under the ACA 'may be charged with and tried at one trial for any number of
I such offences committed within the space of any length of time'. The section reads:

51. Joinder of offences.

Notwithstanding anything contained in section 164 of the Criminal Procedure Code, where a person is accused of more than one offence under this Act he *may be charged with and tried at one trial for any number of such offences committed within the space of any length of time.* (emphasis added)

[8] Section 164(1) CPC, which application is seemingly circumvented by s. 51 ACA, sets out a limitation that only the maximum of three offences can be tried together, and they must be offences of the same kind and committed within a period of twelve months. It reads:

164. Three offences of same kind within twelve months may be charged together.

(1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with and tried at one trial for any number of them not exceeding three.

[9] There is no dispute that by virtue of s. 51 ACA, as far as an offence of the same kind is concerned, which is the case in the present appeal, the limitation as set out under s. 164(1) CPC has no application for offences under the ACA. Apparently, the prosecution in making the application for a joinder of all the seven charges against the appellant was bidding to make full use of that provision.

[10] However, Mr. Tan Hock Chuan argued that s. 51 ACA, being a penal statute, must be construed strictly and the word "may" that appears in s. 51 ACA 'means that the court has a discretion to grant an order to join all seven charges in this case by applying established principles of law as per the decision in the case of *Lim Sing Hiaw v. PP* [1964] 1 LNS 92' which stated that:

… Nevertheless the question of joint or separate trial of charge is, within the limits of the Criminal Procedure Code, a matter within the discretion of the trial Judge and is to be decided in the light of the particular circumstances of each individual case.

[11] Thus it was submitted that an order for a joinder of charges is not an automatic right of the prosecution but it must satisfy the court into using the discretion to grant the order which is an exception to the general rule as provided under s. 163 CPC, which it has failed to do.

[12] The learned counsel in his submission also argued that since the said s. 51 ACA also made a reference to s. 164 CPC, it must also be construed harmoniously with other provisions of the CPC relating to a joinder of charges, in particular s. 165(1) of the CPC that reads:

> **165. Trial for more than one offence.**
>
> (1) If in one series of acts so connected together as to form the same transaction more offences than one are committed by the same person, he may be charged with and tried at one trial for every such offence.

[13] Thus, it was his submission that s. 51 ACA and s. 165 CPC should be applied in harmony with each other and that 'the Sessions Court should have exercised its discretion to order a joinder of charges only if the facts of the case fall within the same transaction'. In other words, s. 51 ACA must be read together with s. 165(1) CPC.

[14] The same submission was also made before the learned Sessions Court judge. Apparently the learned judge disagreed with the submission and in her ground of judgment stated that there is 'nothing in the language of s. 164 CPC or s. 51 ACA that requires the offences to be part of the same transaction before a joint trial can be allowed'. She further stated that 'the words "within the space of any length of time" in s. 51 ACA make it plain and obvious that the offences need not be part of the same transaction' and 'to give effect to counsel's submission is in fact to render s. 51 ACA redundant'.

[15] However, the learned Sessions Court judge in her ground of judgment had also went on to consider whether all the said seven offences were part of the same transaction, in the event that her interpretation of s. 51 ACA is wrong. Upon discussing the principles applicable in determining whether two or more offences were committed in the same transaction, including the oft-quoted principle enunciated in the famous Indian case of *Amrita Lal Hazra*

v. Emperor [1915] 42 Cal 957, she concluded that those seven offences were part of the same transaction by reason that there was continuity of action and purpose, as all the acts were done for the singular purpose of securing the listing of Gropoint Ocean Food Sdn Bhd on the Kuala Lumpur Stock Exchange.

[16] The famous test as formulated in the *Amrita Lal Hazra*'s case was adopted by the Court of Appeal in a case of *Chin Choy v. Public Prosecutor (supra)*. In that case, the court had to decide whether an offence of consorting contrary to reg. 5(1) of the then Emergency Regulations 1948 could be tried together with an offence of possession contrary to reg. 4(1) of the same regulations. The offences had taken place over a period of seven years. In concluding that such a joint trial was an illegality, the court stipulated that:

> ... The best test which has been laid down in considering this matter is contained in *Amrita Lal Hazra v. Emperor* 42 Cal 957 where the following passage occurs at page 983:
>
> It is not possible to frame a comprehensive formula of universal application to determine whether two or more acts constitute the same transaction; but circumstances which must bear on the determination of the question in an individual case may be easily indicated: they are proximity of time, unity or proximity of place, continuity of action and community of purpose or design.

[17] This has since been adopted as the decisive test to determine whether a series of acts is so connected together that they may be construed as forming the "same transaction". It has been adopted in a number of cases, *inter alia*, *Public Prosecutor v. Ridzuan Kok bin Abdullah* [1996] 2 CLJ 346 and *Jayaraman & Ors v. Public Prosecutor* [1979] 1 LNS 36.

[18] It is trite that the test set out in *Amrita Lal Hazra* does not require that all four features be satisfied in order to conclude that several distinct offences were parts of the same transaction. In short, the four requirements are mutually exclusive and not cumulative. Authority for this proposition is to be found in *SA Jamil Md Yusof v. Public Prosecutor* [2002] 7 CLJ 132 and *Public Prosecutor v. Loh Ang Sing* [1964] 1 LNS 145.

[19] However, it must not be lost that the law is that 'a joint trial may be held, not that it must be held and a court is never obliged to hold a joint trial'. Thus, this court is mindful of a reminder by Abdull Hamid Embong J (as he then was) in *Datuk Haji Wasli bin Mohd. Said v. PP & Another Case* [2006] 6 CLJ 1 when he observed that:

> … On the face of these charges alone, I am doubtful if there is a nexus between them or that there was a unity of purpose or design in their acts. This court should lean in favour of this doubt and allow the accused persons the benefit of that doubt. Here I am reminded by the advice of Desai J in his judgment in *Mukerji*'s case. His Lordship said this:
>
> > 'I must deprecate courts' taking unnecessary risk in holding joint trials in doubtful cases. I consider it nothing short of foolishness to hold a joint trial, unless its legality is beyond dispute, and take the risk of the trial being held to be invalid by higher court'. If the higher court does not order retrial, there may arise serious miscarriage of justice from the holding of the joint trial. If it orders retrial, though justice may be done ultimately, it would be done after a waste of public time and money and unnecessary expenditure and inconvenience to the parties. There can be no excuse for all this. 'The law is that a joint trial may be held and not that it must be held. A court is never obliged to hold a joint trial'. Even where it can hold it, it is open to it to hold separate trials for the various offences. A prudent Judge would, therefore, always hold separate trials whenever he has the slightest doubt about the validity of a joint trial.

[20] In the present appeal, based on the reading of the charges, the court agrees with the view of the learned Sessions Court judge that all the offences were parts of the same transaction by reason of continuity of action and community of purpose, as all the acts were done for the singular purpose of inducing one Kris Azman bin Abdullah, a Securities Commission's officer, to help with the listing of a company called Gropoint Ocean Food Sdn Bhd and to stop investigations into the said company by the Commission.

[21] To conclude, it is a view of this court that, as far as the present case is concerned, s. 51 ACA is a special provision that vests upon a trial judge a discretionary power to conduct a joint trial in respect of two or more charges for offences under the ACA and the court agrees with the interpretation of s. 51 ACA by the learned

Sessions Court judge that there is nothing in the language of the said section that requires the offences to be part of the 'same transaction' before a joint trial can be allowed.

[22] However, since the said section only made it discretionary for a trial judge to conduct a joint trial, what more for seemingly 'unlimited' number of charges committed within similarly 'unlimited' length of time, it is also the court's view that as a matter of prudence, a trial judge must, in the exercise of such discretion, take into consideration a question whether the application of the said section would be in harmony with other provisions of the CPC relating to a joinder of charges such as the requirements under s. 165(1) CPC in order not to cause undue embarrassment or difficulty to the accused person. Though such consideration is not mandatory, it is surely a significant aspect in determining whether that discretion is exercised judiciously, along with other considerations such as the likelihood of undue embarrassment or difficulty which is prejudicial to the accused which in the court's view is absent in the present case as rightly pointed out by the learned Sessions Court judge. In contrast, the court views that, again based merely on the reading of the charges, it is desirable in the present case for a joint trial to be conducted, not so much for the sake of convenience of the parties, but more importantly for a reasonably swift disposal of all the seven charges made against the appellant that otherwise would be left hanging on his head for considerable period of time.

[23] Having said all the above, it is a judgment of this court that the learned Sessions Court judge was right in her interpretation of s. 51 ACA and also in her exercise of the discretionary power accorded to her by the said section, and as such the court sees no justification in interfering with the exercise of that discretion. On those premises, the appeal is therefore dismissed and the order of the learned Sessions Court judge is hereby affirmed.